Commissioner for Patents   Serial No.: 09/709,343
Page 14

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

Claim Rejections -35 U.S.C. § 103

The Office Action rejected claims 1-60 under 35 U.S.C.103(a) as being unpatentable over Schuster et al. in United States Patent No. 6,584,490 in view of Mundy et al. in United States Patent No. 6,317,792.

The Office Action asserts that Schuster et al. teach the claimed invention except for the points of presence (POPs) and the claimed aspects of the POPs. The Office Action further asserts that Mundy et al. teach such POPs and the claimed aspects thereof.

With all due respect, any fair reading of claims 1-60 pending in this application fails to read on any combination of the teachings of Schuster et al. and Mundy et al.

Schuster et al. teach a system and method for providing call handling services on a data network telephony system. A portable information device, such as a PDA, associated with a user contains the user's address and/or appointment book information. The address and/or appointment book information includes priority information comprising one or more address/appointment entries having associated priority levels. The priority information is transmitted from the portable information device across a link to a data network telephone or other voice communication device, where it is stored in a call handling database. When an incoming call request is received at the data network telephone, the call is handled according to the priority information contained in the call handling database (see Abstract).

Consequently, Schuster et al. teach a way of controlling an Internet Protocol telephone to perform call forwarding and call screening based on user location and an activity priority level. As taught in column 8, lines 30-42, one

DOCSOTT: 2664401\1

Commissioner for Patents   Serial No.: 09/709,343
Page 15

advantage of the network telephony system 100 is that it may be used to provide user mobility services to a user on the network telephony system. For example, the PID 110 may contain a profile of the user and one or more applications that control the voice communication device 108. By downloading the profile and any communications settings for the user, the user may configure any voice communication device 108 to take calls directed at the user's user identifier. The PID 110 allows the user to be reachable by telephone as long as the user is near a telephone such as a voice communication device 108 with the PID link 109. Of course, the user will preferably also be able to make calls from the voice communication device 108.

From the above it is abundantly clear that Schuster et al. teach only the control of inbound calls using an Internet Protocol telephone 108 which is programmable to accept user's schedule and priority information. Consequently, an inbound call may be forwarded to another telephone based on information contained in the profile. However, the system taught by Schuster et al. does not support call initiation. As per column 8, lines 41-42 "the user will preferably also be able to make calls from the voice communication device 108".

In stark contrast, the instant invention describes and claims a system for establishing long distance call connections through the public switch telephone network using a personal communication assistant. The instant invention does not screen or redirect incoming calls. The personal communication assistant is used to establish a call in a cost-efficient manner from any specified telephone to any specified telephone(s) at any specified time. The teachings of Schuster et al. are therefore completely irrelevant to the patentability of claims 1-60, because the PDA 110 in accordance with Schuster et al. is used for a completely different purpose (inbound call screening and/or forwarding) in a completely different way (i.e. by programming an IP phone with PBX functionality).

Commissioner for Patents   Serial No.: 09/709,343
Page 16

Mundy et al. teach a system and method for selecting points-of-presence (POPs) to be used by client systems when accessing network resources from the Internet. An access monitoring system capable of monitoring client system usage compiles usage profiles for each of a plurality of client systems as POPs are used to access the Internet. The POPs may charge for Internet access according to a flat periodic fee, hourly rates, per-port rates, or other arrangements. Periodically, the access monitoring system evaluates the usage profiles to determine whether the client systems could have obtained access to the Internet for lower access costs if different POPs had been used. If so, the access monitoring system identifies the appropriate, cost-effective POPs and generates one or more scripts instructing the client systems to use the appropriate POPs. To subsequently access the Internet, the client systems execute the scripts to establish communication with the appropriate POPs. The process of monitoring usage and re-evaluating which POPs should be used continues as desired. POP selection can also be conducted to balance load between various POPs based on the usage patterns described by the usage profiles (see Abstract).

The deemed relevance of Mundy et al. is likewise not understood. As per Fig. 5, Mundy et al. teach that a usage profile is complied (step 50) and a decision is made as to whether it is time to create a new script (step 52). If so, a cost-effective POP is identified based on the usage profile (step 54) a script is generated (step 56) and the script is transmitted to the client system (step 58). Thereafter as shown in Fig. 4, the station receiving the script selects a POPs based on the script and attempts to access network resources via the selected POP.

Mundy et al. therefore teach directly away from the claimed invention. In accordance with claims 1-60, a user wishing to establish a telephone call from a calling to a called party sends a call request message to a long distance service provider server specifying a call originating number and the call termination

DOCSOTT: 26644011

Commissioner for Patents   Serial No.: 09/709,343
Page 17

number(s), as well as an optional point of presence code. In addition, the user may set a point of presence override parameter. If a point of presence code is not supplied or a point of presence override parameter is set, a least cost algorithm is used to dynamically select a most cost-effective point of presence based on the call origination number and call termination number(s) in the call request message. It is therefore respectfully submitted that there is nothing in the teachings of Mundy et al. that would lead a person skilled in the art to the claimed invention, because Mundy et al. teach directly away.

Conclusion

Claims 1-60 pending in this application have been carefully reviewed and claims 14, 25 and 59 are amended to correct minor typographical errors. In particular, claim 14 is amended to accord with the language used in claim 13. Claim 25 is amended to delete a redundant word in the last line. Claim 59 is amended to correct a recitation of a means statement.
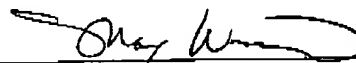
DOCSOTT: 2654401\1

Commissioner for Patents   Serial No.: 09/709,343
Page 18

        For reasons set forth above, it is respectfully submitted that the Office
Action failed to correctly characterize the prior art, and failed to correctly construe
claims 1-60 pending in this application. Consequently, it is believed that all 60
claims pending in this application, in view of the typographical errors that were
corrected in claims 14, 25 and 59 as noted above, are in a condition for immediate
allowance. Favourable reconsideration and early issuance of a Notice of Allowance
are therefore requested.

                                                Respectfully submitted,

                                        By _____
                                                Max R. Wood
                                                Registration No. 40,388
                                                Attorney for Applicant

MRW/ma

        Address: OGILVY RENAULT
                        1981 McGill College Avenue
                        Suite 1600
                        Montreal, QC H3A 2Y3
                        Canada

DOCSOTT: 256440\1